

#3-11

BULLETIN

August 19, 2011

1. Gainful Employment Reporting Requirements: A Small Reprieve

In final regulations published Oct. 29, 2010, and effective July 1, 2011, institutions are required to report information on programs identified as preparing students for "gainful employment" and students enrolled in those programs to the Department of Education (ED).

The [Federal Register](#) and an [Electronic Announcement](#), both published on Aug. 2, 2011, established a due date of Nov. 15, 2011 for the most recent award year data, 2010-11. In addition, although information for the gainful employment programs for prior award years is due by Oct. 1, 2011, ED will continue to accept information for prior award years through Nov. 15, 2011.

2. Direct Consolidation Loan Information – Treatment of Underpayments and Overpayments

Federal Student Aid (FSA) reminds all holders of loans eligible for consolidation into a Direct Consolidation Loan of the underpayment and overpayment tolerance procedures. If a loan holder receives a payoff that is less than the amount needed to fully retire a borrower's underlying loan(s) and that payment is less than \$25.00, the holder may write off the shortage. If the loan holder receives a payoff that results in an overpayment of less than \$10.00, the holder may retain the overpayment. Please click on the link for additional information on how to handle underpayment and overpayment of Direct Consolidation loans.

<http://ifap.ed.gov/eannouncements/062811DirectConsolidationLoanInfoUnderpymtsOverpymts.html>

3. FFELP Special Allowance Rates for the Quarter Ending June 30, 2011

The average of the bond equivalent rates of the quote of the 3-month commercial paper rates used to compute special allowance is 0.19 percent effective for the quarter ending June 30, 2011. For loans made prior to January 1, 2000, the special allowance rate is calculated by using the average of the bond equivalent rates of the 91 day Treasury bills as published by the Department of Treasury. For the quarter ending June 30, 2011, the average of the rates is 0.05 percent.

4. Common Manual Updates

Batch175, 176 and 177 *Common Manual* policy changes include the topics of:

Incentive Compensation

Evaluating the Validity of a Student's High School Completion

Loan Limits and Progressing from Undergraduate to Graduate Grade Levels

Withdrawal Dates at a School That is Required to Record Attendance

School Misrepresentation

Foreign School Audited Financial Statements

Definition of "Module"

Certifying Loans in Both the FFELP and the FDLP

Gainful Employment Provisions

Satisfactory Academic Progress

Ability-to-Benefit Provisions

Withdrawal and Return to a Term-Based Credit-Hour Offered in Modules

Campus-Based Programs



Policy Changes Approved

Batch 175: Proposals 1232-1235
Batch 176: Proposals 1236 -1239
Batch 177: Proposals 1240 -1244

The nation's guarantors provide the following summaries to inform schools, lenders, and servicers of the latest *Common Manual* policy changes. These changes will appear in the manual's next annual update. These changes will also be incorporated into the *Integrated Common Manual*. The *Integrated Common Manual* is available on several guarantor websites, and it is also available on the *Common Manual*'s website at www.commonmanual.org. Please carefully note the effective date of each policy change.

Incentive Compensation

The *Common Manual* has been revised to conform to a final rule change published in the *Federal Register* dated October 29, 2010. This change prohibits schools from paying or providing an incentive based on securing enrollment or the awarding of financial aid and applies not only to employees actually engaged in student recruitment, admission activities, and/or the awarding of financial aid, but also to any higher level employees with responsibilities for those area. The previous "safe harbors" for incentive compensation payments have been removed. The definition of "commissioned salesperson" has been removed from the Glossary.

Affected Sections: 4.1.A Establishing Eligibility
Appendix G
Effective Date: Incentive compensation provided by a school to a person or entity on or after July 1, 2011.
Basis: §668.14(b)(22).
Policy Information: 1232/175
Guarantor Comments: None.

Evaluating the Validity of a Student's High School Completion

The *Common Manual* has been revised to include a new administrative capability standard published as a final rule in the *Federal Register* dated October 29, 2010. A school must develop and follow procedures to evaluate the validity of a student's claim of high school completion if the school or the Department has reason to believe that the student's high school diploma is not valid or the student obtained a diploma from an entity that does not provide secondary school education. This requirement does not apply to a student who receives a secondary education in a home school setting that is treated as a home or private school under applicable state law.

Affected Sections: 4.2 Administrative Capability Standards
5.9 Required High School Diploma or Equivalent
Effective Date: Determinations by a school or the Department that a student's claim of high school completion is suspect on or after July 1, 2011, beginning with applicants who complete a FAFSA for the 2011-2012 award year.
Basis: §668.16(p); *Federal Register* dated October 29, 2010, pp. 66888 to 66889.
Policy Information: 1233/175
Guarantor Comments: None.

Loan Limits and Progressing from Undergraduate to Graduate Grade Levels

The *Common Manual* has been revised to consolidate into a single subsection with applicable subheadings, the Stafford annual loan limit changes that are allowed as a student progresses from an undergraduate to a graduate grade level in a regular or dual-degree program.

Affected Sections: 6.11.A Stafford Annual Loan Limits
Effective Date: For general grade level changes, retroactive to the implementation of the *Common Manual*.

For grade level changes in a dual-degree program, July 1, 2008, unless implemented by the school no earlier than November 1, 2007.

Basis: §668.2(b); FSA 09-10 Application and Verification Guide, Chapter 2, p. 13, and Volume 3, Chapter 6, pp. 3-104 and 3-113 through 3-115.
Policy Information: 1234/175
Guarantor Comments: None.

Withdrawal Dates at a School That Is Required to Record Attendance

The *Common Manual* has been updated to include final rules published in the October 29, 2010, *Federal Register*. For a school that is required to record attendance, the withdrawal date is the student's last recorded date of academic attendance as determined by the school from its attendance records. A school is considered to be required to record attendance if any of the following conditions exist:

- An outside entity (e.g., an accrediting agency or state regulatory agency) requires the school to record attendance. If an outside entity requires a student to self-certify attendance directly to that entity, the school is considered one that must record attendance for the student—and the school must use the student's attendance record to determine the student's withdrawal date—*only* if the school must verify the student's self-certification.
- The school requires its instructors to take attendance. A school that requires its faculty to take attendance at the program, department, or school level must use those attendance records to determine the date of a student's withdrawal. However, if a faculty member chooses to take attendance but the school does not require the faculty member to do so, the school is not required to use the faculty member's voluntary attendance records to establish the student's withdrawal date.
- The school or an outside entity has a requirement that can only be met by recording attendance or using a comparable process. This includes, but is not limited to, requiring that students in a program demonstrate attendance in the classes of that program or a portion of the program.
- If either the school requires its instructors or an outside entity requires the school to record attendance for a limited period of time, the school must use its attendance records to determine the withdrawal date for a student who ceases attendance during that limited period. If the school can document the student's attendance through the period of time during which the school records attendance but the student subsequently ceases attendance, the school must determine the student's withdrawal date according to the requirements for a school that is not required to record attendance.
- If either the school requires its instructors or an outside entity, (e.g., a state workforce development agency), requires the school to record attendance for a specific group of students, the school must use its attendance records to determine the withdrawal date for only that specific group of students.
- If either the school requires its instructors or an outside entity requires a school to take attendance on only one specified day to meet a census reporting requirement, the school is not considered one that is required to record attendance.

Affected Sections: 9.4 Withdrawal Dates
Effective Date: Students who withdraw on or after July 1, 2011.
Basis: §668.22(b)(3); *Federal Register* dated October 29, 2010, p. 66897.
Policy Information: 1235/175
Guarantor Comments: None.

School Misrepresentation

The *Common Manual* has been updated to include the Department's definition of misrepresentation and substantial misrepresentation and the actions the Department may take if it determines a school or one of its representatives has engaged in such activities.

Affected Sections:	4.1.E School Code of Conduct
Effective Date:	Information provided by a school on or after July 1, 2011.
Basis:	§668.71; <i>Federal Register</i> dated October 29, 2010, pp. 66958-66959.
Policy Information:	1236/176
Guarantor Comments:	None.

Foreign School Audited Financial Statements

The *Common Manual* has been updated to align the Manual's text with final rules published in the *Federal Register* on November 1, 2010, regarding a foreign school's submission of audited financial statements.

Affected Sections:	4.3.A General School Financial Responsibility Requirements 4.8 Independent Audits
Effective Date:	Foreign school audited financial statement submissions on or after July 1, 2011.
Basis:	§668.23(h).
Policy Information:	1237/176
Guarantor Comments:	None.

Definition of "Module"

The *Common Manual* has been revised to provide an updated glossary definition of "module," based on final rule changes published in the *Federal Register* dated October 29, 2010. A "module" is a course or group of courses that do not span the entire length of the payment period or period of enrollment in a program including, for example, an intersession that the school combines with a standard term, or mini-sessions that the school combines to form a summer term.

Affected Sections:	6.1.B Academic Year Categories Appendix G
Effective Date:	Enrollment periods that begin on or after July 1, 2011.
Basis:	§668.22(l)(6); <i>Federal Register</i> dated October 29, 2010, pp. 66897, 66935, and 66951.
Policy Information:	1238/176
Guarantor Comments:	None.

Certifying Loans in Both the FFELP and the FDLP

The Manual has been corrected to include statutory changes that, for a specified time period, permitted a school to certify loans of the same type – either Stafford or PLUS – under both the FFELP and the FDLP for the same borrower even if the certifications applied to the same loan period.

Affected Sections:	4.1.A Establishing Eligibility
Effective Date:	None. These provisions were implemented and enforced by the Department.
Basis:	Section 2210 of the Health Care and Education Reconciliation Act of 2010 (HCERA), P.L. 111-152
Policy Information:	1239/176
Guarantor Comments:	None.

Gainful Employment Provisions

The *Common Manual* has been revised to incorporate final rules published in the *Federal Register* on October 29, 2010. The Manual has been updated to include information about school reporting and disclosure requirements for a program that prepares students for gainful employment in a recognized occupation. The Manual has also been updated to include information about the school requirement to provide the Department with a notice when the school intends to offer a new program that prepares students for gainful employment in a recognized occupation.

Affected Sections:	4.1.C Maintaining Eligibility 4.4.B Student Consumer Information
Effective Date:	A new gainful employment educational program offered by a school in which initial enrollment begins after July 1, 2011. Gainful employment reporting and disclosure provided by a school on or after July 1, 2011.
Basis:	§600.2; §600.4; §600.5; §600.10; §600.20; §668.6; §668.8; <i>Federal Register</i> dated October 29, 2010.
Policy Information:	1240/177
Guarantor Comments:	None.

Satisfactory Academic Progress

The *Common Manual* has been revised to align the Manual's text with final rules published in the *Federal Register* on October 29, 2010. Revised policy states that a school that elects to evaluate satisfactory academic progress (SAP) after each payment period has more flexibility in Title IV funding options than a school that chooses to measure SAP less frequently. Revised policy states that a school's SAP policy must specify the pace at which a student must progress through his or her educational program to ensure that the student will complete the program within the maximum timeframe. Pace is calculated by dividing the total number of hours the student has successfully completed by the total number of hours the student has attempted. Remedial courses do not have to be included in the pace calculation. Also, revised policy provides regulatory definitions of terms applicable to SAP. Further, the glossary definition of "satisfactory academic progress" has been revised to be more concise. The *Federal Register* preamble language states that a school may decide that for the purpose of this policy change, a 2011-12 summer crossover period will be subject to its current SAP policy and procedures, as part of the 2010-11 award year. This would be acceptable, and should be addressed in the school's notification to its students of the effective date of any new policy.

Affected Sections:	4.2 Administrative Capability Standards 8.4 Assessing Satisfactory Academic Progress Appendix G
Effective Date:	Satisfactory academic progress evaluations conducted by a school on or after July 1, 2011.
Basis:	§668.34; <i>Federal Register</i> dated October 29, 2010; The 2005 Blue Book.
Policy Information:	1241/177
Guarantor Comments:	None.

Ability-to-Benefit Provisions

The *Common Manual* has been updated to include new language that defines what constitutes six credit hours of college work for an ability-to-benefit (ATB) student enrolled in a quarter-credit-hour or clock-hour program, and the point at which students enrolled in courses offered in modules gain eligibility based on the ability to benefit. The Manual has also been updated to define in general terms which individuals can administer an ATB test and what testing options are available to test individuals with disabilities and non-English speaking individuals.

The Manual has been expanded to include guidance related to ATB provisions for disabled individuals and non-English speaking individuals, including that the test must measure basic verbal and quantitative skills and, if administered to an individual whose first language is not English, that the Department will ensure that the test will be linguistically correct and culturally sensitive.

Affected Sections:	5.10 Ability-to-Benefit Provisions 5.10.A Testing ATB Students with Special Needs
Effective Date:	Ability-to-benefit tests administered on or after July 1, 2011, for students with special needs. For programs measured in quarter credit hours or clock hours, ability-to-benefit determinations made on or after July 1, 2011. For programs of study offered in modules, ability-to-benefit determinations made on or after July 1, 2011.
Basis:	2010. §668.32(e)(5), §668.142, §668.148, §668.149; <i>Federal Register</i> dated October 29, 2010.
Policy Information:	1242/177
Guarantor Comments:	None.

Withdrawal and Return to a Term-Based Credit-Hour Program Offered in Modules

The *Common Manual* has been revised to incorporate final rule changes.

If a student withdraws from a term-based credit-hour program offered in modules during a payment period or, as applicable, period of enrollment, and resumes enrollment in the same program before the end of the period, the school must determine a student's eligibility to receive Title IV aid that the school or the student returned as the result of the return of Title IV funds calculation, and any Title IV aid that was canceled as the result of the student's withdrawal. A student is eligible to receive any Title IV aid for which he or she was eligible prior to withdrawal if the school determines and documents the student's eligibility—and makes any required adjustments—based on both of the following:

- The student's enrollment status upon his or her return to the program.
- The student's revised cost of attendance (COA), taking into account any reduction in the COA caused by the student's temporary cessation of enrollment.

Affected Sections:	8.7.F Delivery in Credit-Hour Programs Offered in Modules 8.7.G Delivery to Borrowers in Special Circumstances
Effective Date:	Withdrawal from a term-based credit-hour program offered in modules on or after July 1, 2011.
Basis:	§668.22(a)(iii)(A); <i>Federal Register</i> dated October 29, 2010, p. 66894.
Policy Information:	1243/177
Guarantor Comments:	None.

Campus-Based Programs

The *Common Manual* has been revised to expand on the definition of "campus-based programs" provided in the Glossary. The new definition clarifies that the funding for these programs is at the school level as opposed to the student level, and that the aid a student receives from these programs could vary based on whether the school participates in any of these programs, the amount of funds available for a program in which the school participates, and the school's packaging policies.

Affected Sections:	Appendix G
Effective Date:	Upon approval by the <i>Common Manual</i> Governing Board.
Basis:	§668.2(b).
Policy Information:	1244/177
Guarantor Comments:	None.